

REMARKS

Claims 1-15 and 17-20 are pending. In accordance with the foregoing, claim 17 is amended to recite the separator layer envelopes the anode as similarly presented in claim 1. New claims 21-24 are added and are supported, for example, by Figure 1. Claims 4 and 10-15 are withdrawn from consideration. In the above referenced Office Action, claims 1-3 and 5-9 stand rejected. Applicant respectfully traverses the rejections and requests a withdrawal of all rejections as set forth below.

The U.S.P.T.O. has withdrawn claims 17-20, newly submitted in the previous response, as being directed to a non-elected invention. Specifically, the U.S.P.T.O. states the electrochemical cell of claim 17 does not require the separator subassembly to envelope the anode subassembly as required in claim 1. Applicant respectfully traverses. Claim 1 recites "an anode subassembly is enveloped within the elongated separator layer". Claim 17 as presented in the previous response recites "an elongated separator layer folded and sealed to form a pouch around the anode." In order to materially advance prosecution of claims 17-20, Applicant has amended claim 17 to specify the elongated separator layer folded and sealed "to envelope the anode", in place of "form a pouch around the anode". Applicant submits that both independent claims 1 and 17 require the separator layer to envelope the anode. Applicant respectfully requests reconsideration of the withdrawal of claims 17-20 made by the Examiner and requests examination thereof.

Claims 1-3 and 5-9 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kelm (U.S. 5,486,215) in view of Spillman (U.S. 5,631,102). In the previous response, Applicant articulated distinctions between the pending claims and the cited reference thus indicating that the references are insufficient to meet the pending claims. The content of the previous response is incorporated by reference in its entirety. The Examiner responded to Applicant's arguments by stating Kelm modified by Spillman teaches that the spacer layer leaves a leading end of the anode subassembly exposed because the outer edge of the spiral can be considered a leading edge. The Examiner's interpretation does not correspond to what is actually taught. Spillman clearly states "What is necessary according to the present invention is that the

separator insert 40 cover the leading edge 42"(emphasis added). It would be readily apparent to one having ordinary skill in the art that the leading edge of a coiled electrode is the edge that begins the coil, i.e. "leads" the coil as it is wound. The interpretation that the outer edge can be considered a leading edge is unsupportable since the coil is not formed from outside in, and this interpretation would be contradictory to Spillman's definition of the leading edge 42. Spillman clearly defines the leading edge as the inner edge and requires that the leading edge be covered. As such, Spillman clearly teaches away from leaving a leading end exposed as in claim 1. Applicant respectfully submits the rejection is improper and should be withdrawn.

New claim 21, dependent on claim 1, relate to the spacer layer being sealed to the separator layer. Neither Kelm nor Spillman teach a spacer layer being sealed to the separator layer. Applicant submits new claims 21-24 are thus allowable.

Applicant asserts that the remarks presented herein are fully responsive to the Office Action and are sufficient to overcome the rejections presented in the Office Action. However, there may be other arguments to be made as to why the pending claims are patentable. Applicant does not concede any such arguments by having not presented them herein. Applicant respectfully asserts that the present claims are in condition for allowance. Withdrawal of the instant rejections and issuance of a Notice of Allowance is respectfully requested.

Please grant any extension of time, if necessary for entry of this paper, and charge any fee due for such extension or any other fee required in connection with this paper to Deposit Account No. 13-2546.

Respectfully submitted,

June 30, 2008
Date

/Carol F. Barry/
Carol F. Barry
Reg. No. 41,600
(763) 526-0932
Customer No. 27581